

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**CURTIS LAWRENCE d/b/a SKYWARD
TRANSPORTATION, LLC,
Plaintiff,**

vs.

**FRESH DEL MONTE PRODUCE, INC.
a/k/a DEL MONTE FRESH PRODUCE
(TEXAS), INC.,
Defendant.**

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CIVIL ACTION NO. 4:20-cv-04236

**PLAINTIFF'S SUBMISSION IN COMPLIANCE WITH
THE COURT'S SHOW CAUSE ORDER OF JANUARY 20, 2022**

Dear Judge Edison;

As instructed, we are submitting this letter regarding our inadvertent failure to attend the scheduling conference previously held on January 12, 2022.

As an initial matter, we take full responsibility, and offer our sincere apology, for any inconvenience we have caused the Court.

We are quite chagrined by these circumstances, as it is not our *modus operandi* to intentionally engage in any disrespect to the Court or otherwise fail to abide by any Court Orders. Rules or instructions. As an indication of our prior efforts to diligently litigate this matter and comport with the Court's requirements, we would note our participation in the earlier mediation, the submission of relevant documents to the Court during that proceeding, and the provision of a draft Joint Case Management Plan with a request for dates for a Rule 26 Conference to opposing counsel on January 14, 2022.

We would also like to offer an explanation, by way of extenuating circumstances, in the hope that the Court will understand the attendant circumstances.

Mr. Pieksen underwent open heart surgery on 12/20/21, including a valve replacement, bypass, and Maze procedure, which resulted in total kidney failure, and a 4 day stay in ICU; he was finally released on 12/31/21. He was out of commission and convalescing at home as of 1/12/22, and on pain medication.

Mr. Bagneris also had serious medical issues, as his wife was diagnosed with COVID-19 on January 6, 2022, and he was also diagnosed with COVID-19 on January 10, 2022. As a result, both counsel were medically incapacitated.

Unfortunately, neither counsel had the presence of mind to get in contact with the Court prior to 1/12/22, and although defense counsel did email Mr. Pieksen that morning, he did not have the computer capability (nor mental faculties) to join the Zoom meeting, nor call the Court directly, although he did attempt to email the Court.

Again, we sincerely apologize for this oversight and failure to attend the 1/12/22 Scheduling Conference, and any resulting inconvenience or consternation it may have caused.

Respectfully,

s/ Michael G. Bagneris

s/ John O. Pieksen, Jr.

Michael G. Bagneris (Bar #2658)

John O. Pieksen, Jr. (Bar #21023), T.A.

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**Counsel for Plaintiff, Curtis Lawrence,
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